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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,) No. CR 07-00373 RMW
14 Plaintiff,) STIPULATION AND [PROPOSED]
15 v.) ORDER TO CONTINUE STATUS
16 NED ROSCOE, and) HEARING AND TO EXCLUDE TIME
JOHN ROSCOE,) FROM APRIL 7, 2008 to MAY 5, 2008
17 Defendants.) FROM THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C. §
3161(h)(8)(A),(B))
18 _____)

19 On April 7, 2008, the parties appeared for a hearing before the Court for a status hearing.

20 At that time, the Court granted the motion of counsel for defendant Ned Roscoe to be removed
21 from the case due to a conflict of interest, and appointed Mark Eibert, Esq., as new counsel.
22 Based upon the request of the parties, the Court set the matter for a status hearing on May 5,
23 2008 to allow for newly appointed counsel's preparation and review of the discovery in this case.
24 The government and counsel for both defendants thus stipulated to an exclusion of time under
25 the Speedy Trial Act to allow counsel reasonable time for effective preparation.

26 The United States hereby submits this written request for an order finding that said time
27 is excluded under the Speedy Trial Act, 18 U.S.C. § 3161, in that the ends of justice are served

1 by taking such action and outweigh the best interests of the public and defendants in a speedy
2 trial. 18 U.S.C. § 3161(h)(8)(A). Further, the failure to grant such a continuance would
3 unreasonably deny counsel for defendant Ned Roscoe the reasonable time necessary for effective
4 preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv).

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6 DATED: April 8, 2008

JOSEPH P. RUSSONIELLO
United States Attorney

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EUMI L. CHOI /s/
Assistant United States Attorney

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MARK EIBERT /s/
Attorney for Defendant Ned Roscoe

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PETER LEEMING /s/
Attorney for Defendant John Roscoe

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ORDER

Based upon the stipulation of the parties, and for good cause shown, the Court HEREBY ORDERS that the time between April 7, 2008 and May 5, 2008 is excluded under the Speedy Trial Act, 18 U.S.C. § 3161. The Court finds that the ends of justice are served by taking such action and outweigh the best interests of the public and defendants in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). Further, the failure to grant such a continuance would unreasonably deny counsel for defendants and the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. § 3161(h)(8)(A) and (B)(iv).

IT IS SO ORDERED.

DATED:

**RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE**